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OFFICE OF PETITIONS

In re Application of
John A Greaves, Friedhelm Brinkhaus, and
James E. Haworth

Application No. 09/206,458

Filed: December 7, 1998

Attorney Docket No. 4532670/6974

Title: METHOD FOR SIMULTANEOUS
EXTRACTION OF ESSENTIAL OILS AND
ANTIOXIDANTS FROM LABIATAE
SPECIES AND THE EXTRACT PRODUCTS
THEREOF

DECISION ON
RENEWED PETITION

This is a decision on the renewed petition¹ filed on January 4, 2002², pursuant to 37 C.F.R. §1.137(b)³, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

¹ The original petition, filed on June 28, 2001, was dismissed in a decision mailed on October 9, 2001.

² The renewed petition contains a certificate of mailing dated October 16, 2001.

³ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The original petition was dismissed for failure to submit the petition fee. As such, the petition was not considered on the merits. In the decision mailed October 9, 2001, it was indicated that the required petition fee was \$1,240.00. This indicated amount was incorrect, since as of October 1, 2001, the fee has been raised to \$1,280.00. The Office regrets this inaccuracy.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed November 22, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 23, 2001. A Notice of Abandonment was mailed on August 9, 2001.

Between the instant and the original petition, the petitioner has submitted \$1,240.00 for the petition fee, included an amendment, and made the proper statement of unintentional delay.

The renewed petition is not grantable because requirements (1) and (2) above have not been satisfied.

Regarding the first requirement, Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed⁴. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(b)(1) (i.e., a Notice of Appeal (and fee required by law); an amendment that prima facie places the application in condition for allowance; a continuing application under 37 C.F.R. §1.53(b); a request for continuing examination under 37 C.F.R. §1.114, if applicable; or a 37 C.F.R. §1.129(a) submission, if applicable). The amendment received along with the original petition has been considered by the Examiner, but it failed to place the application in condition for allowance as the claims (as amended) raise new issues which would require further consideration.

Regarding the second requirement, as discussed above, an additional \$40.00 will be required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

⁴See M.P.E.P. 711.03(c).

Telephone inquiries should be directed to Petitions Attorney Paul Shanowski at (703) 305-0011.

A handwritten signature in black ink, appearing to read "Paul Shanowski". The signature is fluid and cursive, with a prominent initial "P" and a long, sweeping underline.

Paul Shanowski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy